



Parliament opens up a brighter future for Europe's economy

By Jonatan Henriksson*

The 16 of February 2006 may not go down as a milestone in history, but it deserves to be remembered as a day when yet another step on the long and dwindling road of European integration was taken. On this day, the European Parliament finally concluded its first reading of the Commission's proposed Services Directive, which saw the light two years earlier.

Perhaps a recap will be useful for those of you who have forgotten what all the fuss concerning this Directive was about:

Basically, the aim of the Directive is to open up the potential for European trade in services – an area of the common market which, strangely, received scarce attention until recently compared to the free movement of goods, persons, and capital. The services economy represents 60-70% of European GDP but companies have been held back from offering their services in other Member States by all sorts of administrative requirements. The Commission therefore, rather wisely, prepared a draft Directive in January 2004 which would force national governments to get rid of the worst trade barriers and enable companies to operate in other markets on the basis of the rules of their home country, a.k.a. the country of origin principle. However, to the disbelief of many observers, including myself, this ambitious yet pragmatic proposal ended up causing a general furor across Europe. Trade unions and left-leaning parties cried out against the “Bolkestein Directive” (after the Dutch Internal market Commissioner who drafted it), which they alleged would lead to “social dumping” or worse. Few of these claims were supported by fact. Still, they continued to flourish and made a substantial contribution to the no-vote in the French referendum on the EU Constitution, which was said to embody similar “neo-liberal” ideals.

Set against this background, the European Parliament's vote last month stands out as quite an achievement. First of all, proponents of the internal market should be happy that the Directive is still on track. Second, although it reshaped the Commission proposal rather fundamentally, the vote may not have been such a bad thing altogether. The most significant amendment, which consisted in substituting the country of origin principle with a “freedom to provide services”, is a case in point.

This freedom to provide services suggests that, in principle, companies providing cross-border services must abide by the rules of the host country. In return, these rules should be non-discriminatory, necessary, and proportional. Of course, the meaning of these terms is far from clear and will only be elucidated, in time, through the case law of the European Court of Justice. It is interesting to speculate as to what might happen if a particular rule does not fulfill the criteria. In my view, it is perfectly possible that the Court would then decide that companies can disregard this rule and provide their services on the basis of their home country's regulations. In other words, the country of origin principle might not be completely dead although it no longer appears black-on-white in the Directive.

The Parliament also introduced a list of specific requirements which the host country may not impose on the service provider unless justified on various public interest grounds (public policy, public security, environmental protection, and public health). The prohibited requirements include obligations on a company to register with a professional body in the host country or to use specific equipment and material.

The freedom to provide services, as set out in the Parliament's amendment, should be sufficient to do away with some of the protectionist practices Member States are happily making use of today. Examples of the latter are easy to come across:

- a German painter and decorator which is unable to work in Belgium because his car is not registered there (Source: Socialist group in the European Parliament);
- diving instructors in Greece are required to speak fluent Greek even if they only instruct foreign tourists that do not understand a word of Greek (Source: Swedish MEP Charlotte Cederschiöld);
- Spain requires salesmen operating at fairs to apply for authorization in person at the local police station and to collect the permit eight days later. In view of the short duration of most fairs, this effectively rules out the participation of foreign salesmen (Source: Swedish National Board of Trade)

Practices such as the ones just mentioned are neither necessary nor proportional, and discriminate quite unashamedly against foreign service providers. There is simply no justification whatsoever for maintaining them and the Services Directive should force governments to deal with them in a serious manner.

The Parliament's vote was a compromise, of course, and many of the amendments are likely to result in less market opening and growth in services trade than would have been the case under the Commission proposal. But to lament this fact is to forget that the EU system rarely produces radical outcomes. Indeed, it is not meant to as the EU was purpose-built to find middle-of-the-road solutions susceptible of being accepted by (almost) everybody.

In all likelihood, the Parliament's vote has put an end to the ideological debate and the sharp criticisms directed at the Services Directive. After the efforts made to reach a cross-party agreement between the Parliament largest political groups – the conservatives and the socialists – there is little will to upset this delicate balance. The second reading in the Parliament should thus be less exciting than the first.

What should be interesting, however, is to what extent the Commission and the Council are ready to accept the Parliament's amendments. Will the Parliament's middle ground suit these bodies?

This is indeed likely to be the case. Charles McCreevy, the current commissioner for the internal market, has several times expressed his satisfaction with the Parliament's vote and seems intent on producing a revised proposal in April along the same lines. It does not even seem far-fetched to predict that the Commission will copy-paste the Parliament's amendment on freedom to provide services!

As far as the Council is concerned, the political realities among the Member States mirror those in the Parliament. Some governments are strong supporters of the country of origin principle; others reject it. The Parliament's amendment in this regard should therefore be welcomed by most governments as a reasonable compromise that everybody "can live with".

The future thus looks bright. By successfully agreeing on amendments to the draft Services Directive, the Parliament has taken an important step towards finally getting rid of a lot of the red tape preventing service companies to develop across borders. It has also put pressure on the Member States to deliver their part of the deal.

Perhaps there won't even be a need for the negotiations to drag out forever (as they tend to do in the EU) and the Directive could be adopted before the summer? *Voilà* what would be a strong message that the EU is serious about improving economic growth!

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